STATEMENT OF COMMON OWNERSHIP

This application, 09/753,307, was filed after November 29, 1999.

The undersigned is an attorney of record in this case.

Application 09/753,307, the instant application, and Patent No. 6,347,092 were, at the time the invention claimed in Application 09/753,307 was made, both owned by Cisco Technology, Inc.

REMARKS

Claims 1-19 are pending in the application.

Claims 1, 6, 9, 10-14 and 19 were rejected under 35 USC § 102(b) as being anticipated by Bales et al. (US Patent No. 5,991,263).

With regard to claim 1 and 9, the office action states that Bales teaches collecting information about a current call active on a first entity while the current call is still active on a network device, and column 3, line 4 of Bales is referred to. Column 3, line 4 of Bales is a portion of a sentence the entirety of which is:

> "In accordance with the prior art which is the ISDN specification, if PRI link111 fails, switch nodes 101 and 102 abandon the active calls that were being communicated on B channels of PRI link 111."

There is no indication that any information of the active calls is collected, except that the link has failed, but that is not information about the call, that is information about the link.

Further, the office action states that initializing a second entity with the information while the current call is still active on the first entity is shown by Figure 1, items 112 or 109. Items 112 and 109 are PRI channels, not entities as that term has been defined in the specification.

It appears that the major source of confusion lies in the definition of the term 'active call.' In the specification, an active call is one that is still actively being processed by a particular entity. See page 4 of the instant specification. In Bales, an active call is a call that has not been abandoned, which may occur after a failure. Bales is directed to switching a call from a failed link to an operating link, in an emergency condition. There is no information gathered during the call to prepare for that switch, as discussed above.

Claims 1 and 9 have been amended to more clearly point out that in the instant application, the calls are being switched while the first entity is still processing the call. As Bales is directed to switching calls after a failure, the call is no longer being processed by the

first entity, the first entity having failed. While the call may still technically be active, in that it is not yet abandoned, Bales is directed to moving that call before it becomes abandoned. With regard to claim 1, there is no release of the first entity from further processing of the call, as the first entity has failed and therefore does not require release, as it is already no longer processing the call. It is submitted that claims 1 and 9 are patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claim 6, there was a typographical error in claim 6. The sequence had been incorrectly listed as a *retain* sequence rather than a *retrain* sequence. The sequence on the second entity is a re-training. This amendment has been corrected with regard to claim 9 as well. This is supported in the specification on page 4. Applicants apologize for the confusion. Bales does not teach a retraining sequence, as a retraining sequence is performed on the second entity based upon the information collected during the processing of the call by the first entity, to prepare for the call switching from the first entity to the second. As Bales is directed to switching a call from a failed entity to any other available link that can take it, there is no retraining of the second entity to prepare it for accepting the call. In Bales there is not time between the link failure and call abandonment. It is therefore submitted that claim 6 is patentably distinguishable over the prior art and allowance of this claim is requested.

With regard to claims 10 and 11, which depend from claim 9, discussed above, a software layer in an software architecture, as discussed in Bales, column 4, lines 27-35, is not the same as a computer readable medium being a DSP image file or a downloadable file. In addition, the DSP image file or downloadable file, if they were disclosed by Bales, would not teach the code of claim 9, as discussed above. It is therefore submitted that claims 10 and 11 are patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claims 12 and 14, Bales does not teach a network device that can switch calls from one processing means to another without interruption. Bales specifically

states that the interruption is minimized, but that there is an interruption. See Bales, column 2, lines 7-8, "...so that only a momentary interruption of the calls occurs," and column 3, lines 11-12, "The result is that the active calls are only interrupted for a small amount of time..." Therefore, Bales does not teach switching the calls without interruption. It is therefore submitted that claims 12 and 14 are patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claims 13 and 19, Bales does not teach that the processing means has, or is, a controller that can switch calls without interruption. It is therefore submitted that claims 13 and 19 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 2-4 and 15-18 are rejected under 35 USC § 103(a) as being unpatentable over Bales et al. in view of Reine et al. (US Patent No. 6,347,093).

As set out in the STATEMENT OF COMMON OWNERSHIP above, the Reine patent and the instant application were both owned by the same owner at the time the invention as claimed in the instant application was made. This disqualifies the Reine reference as a reference under 35 USC 103(a). See the MPEP 706(l)(1)-(3).

As stated in the office action, on page 4, "Bales does not teach the entities are digital signal processors located within the same module..." It is therefore submitted that claims 2-4 and 15-18 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 5, 7 and 8 are rejected under 35 USC § 103(a) as being unpatentable over Bales et al.

The office action states that 'to achieve a high data rate, compression has always been introduced..." However, there is no mention in Bales of preparing the second entity, as was discussed above with regard to claim 6. Bales is directed to finding an entity that can handle

calls being handled by a failed link in the period of time between failure and abandonment. There is not time to prepare the second entity to handle calls from the first, much less copying compression tables to allow the second entity to compress data in a manner identical to the first. Nor is there any time to handle the type of modulation or make a record of a country code. It is therefore submitted that claims 5, 7 and 8 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 1, 9, 12 and 14 read on well-known feature, a simple transfer of a phone call. This statement has been made with no supporting information. Thus far, the only art that has been provided to support the alleged "well-known" feature does not teach the switching of phone calls between handling entities as claimed in the instant invention. A simple transfer of a phone call implies the transfer of a call in a switchboard or other type of device, and once it is switched it stays switched. There is no mere switching of the calls in the invention as claimed. Information about a call is collected from a first entity, a second entity is prepared to take over the handling of the call and then the call is moved from one entity to the other to free up the first entity. This is not a well-known feature, and no support is provided for this argument. This argument is traversed.

No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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REMARKS:

In re application of: Jerry Doty, Luis A. Viriato and Ronald R. Meadows

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Serial No.: 09/753,307 Examiner: Karen L. Le

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For: METHOD FOR SWITCHING ACTIVE CALLS

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